

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SAMUEL LOVE,
Plaintiff,
v.
RAED MUSTAFA,
Defendant.

Case No. [20-cv-02071-PJH](#) (AGT)

**ORDER ADOPTING MAGISTRATE
JUDGE'S REPORT AND
RECOMMENDATION**

Re: Dkt. No. 21

The court has reviewed Magistrate Judge Alex G. Tse's Report and Recommendation Re: Plaintiff's Motion for Default Judgment. The court finds the Report correct, well-reasoned and thorough, and adopts it in every respect.

Federal Rule of Civil Procedure 55(b)(2) permits a court, following default by a defendant, to enter default judgment in a case. "The district court's decision whether to enter default judgment is a discretionary one." Aldabe v. Aldabe, 616 F.2d 1089, 1092 (9th Cir. 1980). "However, necessary facts not contained in the pleadings, and claims which are legally insufficient, are not established by default." Cripps v. Life Ins. Co. of N. Am., 980 F.2d 1261, 1267 (9th Cir. 1992).

Plaintiff's complaint, as described by Judge Tse, is not well-pled. Although defendant's default has been entered by the Clerk, the factual allegations of Plaintiff's complaint must support a judgment. Thus, if plaintiff hopes to secure a judgment, he must cure the deficiencies noted in Judge Tse's Report and Recommendation.

Plaintiff's motion for default judgment is **DENIED WITHOUT PREJUDICE**. The deadline for Plaintiff to file an amended complaint, serve it on defendant, and submit a certificate of such service shall be 28 days from the date of this order. Plaintiff may

thereafter file a revised motion for default judgment.

IT IS SO ORDERED.

Dated: February 8, 2021

/s/ Phyllis J. Hamilton
PHYLLIS J. HAMILTON
United States District Judge

United States District Court
Northern District of California